REMARKS

Claims 1-3 are pending in the present application and are rejected. Claims 1 and 2 are herein amended. No new matter has been added.

Objections to the Specification

The Office Action objects to the abstract of the disclosure. Since the amendment of January 6, 2010 amended the abstract to be under 150 words and one paragraph, Applicant's representative contacted the Examiner for clarification regarding this objection. The Examiner indicated that for an unknown reason, the USPTO system had not recorded the amendments to the abstract, and that they should be resubmitted. As such, Applicant herein re-submits the amendment to the abstract of the disclosure.

Applicant's Response to Claim Rejections under 35 U.S.C. §112

Claims 1-3 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action indicates that it is unclear "how the correctness of an inhalation is being measured." The Office Action inquires as to whether the reed sounds only when the user breathes in at a certain rate, and would not sound if the user inhaled too greatly.

In response, Applicant respectfully submits that the reed sounds when the user breathes in at a certain rate, or higher. In other words, if a user inhales more strongly than a prescribed

rate, the reed will make a sound. The minimum rate of inhalation will vary, however, according to the type of inhaler used. As described in the specification, the claimed inhaler aid can be used with inhalers from different manufacturers. For example, the minimum rate of inhalation will vary between the Flutide Discus, Pulmicort Turbuhaler, Diskhaler and Rotadisk. These minimum rates of inhalation are well known to those skilled in the art. For example, one having ordinary skill in the art would immediately recognize that the minimum rate of inhalation for both a Pulmicort Turbuhaler and a Flutide Discus is 30 ℓ/min. The reed size for each particular embodiment of the inhaler aid of claims 1-3 will be made to match each manufacturer's specifications based on the minimum inhalation speed for Flutide Discus, Pulmicort Turbuhaler, Diskhaler and Rotadisk (the reed can be easily removed and replaced). For at least the above reasons, Applicant respectfully submits that one having ordinary skill in the art would know that the correctness of an inhalation is measured based on a minimum inhalation rate, depending on the manufacturer of the inhaler to which the inhaler aid is attached. Favorable reconsideration is respectfully requested.

Applicant's Response to Claim Rejections under 35 U.S.C. §103

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kinkade (U.S. Patent No. 5,062,422) in view of Nowacki et al. (U.S. Patent No. 4,809,692) and MacRae et al. (U.S. Patent Application Publication No. 2002/0046751).

It is the position of the Office Action that Kinkade discloses the embodiments as claimed, with the exception of teaching (i) a reed fitted into a right side of the main unit, and (ii) that the

main unit is made from silicon rubber. The Office Action relies on Nowacki to teach (i) and relies on MacRae to teach (ii).

Kinkade is directed at an offset anatomical mouthpiece. As illustrated in Figure 1, the mouthpiece 10 includes a coupling 1. The mouthpiece includes wings 3 with a lip 4 between the wings 3. Kinkade discloses that the mouthpiece can be applied to underwater breathing devices, as well as "inhalators and gastric tubes for medical equipment." See column 1, lines 10-15. Kinkade also states that the mouthpiece is "formed of a moldable resilient material." Column 2, lines 11-12.

Nowacki is directed at a pediatric asthmatic medication inhaler. As illustrated in Figure 1, the inhaler includes an adapter fitting 46 which covers a user's mouth, an inhalation valve 14 and a right angle mouthpiece 12. It appears that a cartridge of medicine is removably fitted to the mouthpiece 12. See column 1, lines 18-21. The adapter fitting 46 is "molded of foam plastic or rubber material." See column 2, lines 2-3. A whistle 72 is included in the adapter fitting. Upon exhalation, the whistle makes a audible sound so that is known if the child user is exhaling. Additionally, "a certain amount of noise may be generated by the whistle upon inhalation." See column 4, lines 10-26.

MacRae is directed at a nasal inhaler. As illustrated in Figures 6 and 38, for example, the inhaler 10 is adapted to fit on a container 40 of medicine and interpose the medicine and a user's nose. As discussed in paragraph [0111], MacRae discloses that the adapter 50 part of the inhaler 10 should be "made of a synthetic rubber material, and preferably of a silicone material." MacRae also discloses that the medicine can be a powdery medicine.

It is the position of the Office Action that it would have been obvious to include the whistle 72 of Nowacki in the mouthpiece 10 of Kinkade in order to provide an audible signal that the user is breathing correctly.

In response, Applicant respectfully submits that the combination of cited art does not disclose or suggest the embodiments as claimed. Claim 1 recites that "only when… an inhalation has been correctly performed, a sound is produced from the reed." Claim 2 contains a similar recitation. However, Nowacki provides the following disclosure:

> The adapter is completed by the provision of a whistle 72 incorporated in an aperture in the upper portion of the body 48 along the vertical median plane. This whistle is of a type frequently used in children's squeezed toys, and will emit a whistling sound when air is ***expelled*** through it. The whistle ***may incorporate a one-way valve mechanism so as not to pass air upon inhalation***, although this is not critical since it would provide only a small amount of bypass air that would not hurt anything. The whistle has a central bore 74 which serves as the outlet valve upon ***exhalation***, and ***upon exhalation*** makes an audible whistling sound so that the person administering asthmatic medication to the infant will know that the infant is ***exhaling***. A certain amount of noise may be generated by the whistle upon inhalation, and this is moderately beneficial although not essential. Column 4, lines 10-27 (emphasis added).

Thus, the combination of cited art results in a sound being made when exhalation is properly done, and a sound not being made when exhalation is improperly done. Thus, the user can properly discern whether or not exhalation has been properly done. However, at best, in the combination of cited art, "a certain amount of noise may be generated by the whistle upon inhalation." This is noise-upon-inhalation is made without respect to whether inhalation is properly done or not. It would appear that in the combination of cited art, a slight noise would always be made upon inhalation. This would not allow a user to properly discern whether or not the inhalation has been properly done. In order to further clarify this, Applicant herein amends

the claims to clarify that only when inhalation is properly done does the reed make a sound. This is supported at least by page 17, lines 11 to 19. Applicant respectfully submits that the combination of cited art does not disclose or suggest the embodiments as claimed for at least this reason.

For at least the foregoing reasons, the claimed invention distinguishes over the cited art and defines patentable subject matter. Favorable reconsideration is earnestly solicited.

If the Examiner deems that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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